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**Preparatory Commission for the International Criminal Court**
**Working Group on Rules of Procedure and Evidence concerning Part 6 of the Statute**
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# Discussion paper proposed by the Coordinator regarding rules of procedure and evidence relating to Part 6 of the Rome Statute, concerning the trial

## Rule 6.30

**Sub-rule 1 should be amended to read:**

1. In order to present their views and concerns, victims shall make written application to the Registrar, who shall transmit the application to the relevant Chamber. Subject to the provisions of the Statute, in particular article 68, paragraph 1, the Registrar shall provide a copy of the application to the Prosecutor and the defence, who shall be entitled to reply within a time limit to be set by the Chamber. Subject to the provisions of sub-rule 2, the Chamber shall then specify the proceedings and manner in which participation is considered appropriate, which may include making opening and closing statements.

## Rule 6.30 *ter*

**1. Sub-rules 2 and 3 (a) should be amended to read:**

2. A legal representative of a victim shall be entitled to attend and participate in the proceedings in accordance with the terms of the ruling of the Chamber and any modification thereof given under rules 6.30 and 6.30 *bis*. This shall include participation in hearings unless, in the circumstances of the case, the Chamber concerned is of the view that the representative's intervention should be confined to written observations or submissions. The Prosecutor and the defence shall be allowed to reply to any oral or written observation by the legal representative for victims.

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3. (a) When a legal representative attends and participates in accordance with this rule, and wishes to question a witness, including questioning under rules 6.26 and 6.27, an expert or the accused, the legal representative must make application to the Chamber. The Chamber may require the legal representative to provide a written note of the questions and in that case the questions shall be communicated to the Prosecutor and, if appropriate, the defence, who shall be allowed to make observations within a time limit set by the Chamber.

## Rule 6.30 *quater*

**1. Replace sub-rules 5 and 6 with the following:**

5. In a manner consistent with the ruling made under rules 6.30 to 6.30 *ter*, victims or their legal representatives participating in proceedings shall, in respect of those proceedings, be notified by the Registrar in a timely manner of:

(a) Proceedings before the Court, including the date of hearings and any postponements thereof, and the date of delivery of the decision;

(b) Requests, submissions, motions and other documents relating to such requests, submissions or motions.

**2. Renumber sub-rules 7, 8 and 9 as 6, 7 and 8, and amend references in sub-rules 4 and 7 to read "sub-rules 5 and 6".**

## Rule 6.30 *quinquies*

**Insert a new rule with the following text:**

A Chamber may seek the views of victims or their legal representatives participating pursuant to rules 6.30 to 6.30 *ter* on any issue, *inter alia*, in relation to issues referred to in rules 5.5, 5.7, 5.22, 5.25, 6.15, 6.25 and 9.16. In addition, a Chamber may seek the views of other victims, as appropriate.

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**As a consequence of the proposals above, the following amendments should be made in other provisions (in the order the rules appear in document PCNICC/2000/WGRPE/INF/1).**

**Rule 6.6**

**Sub-rules 2 and 3 should be amended to read as follows:**

2. The Prosecutor and the defence shall have the opportunity to respond to the observations submitted under sub-rule 1.

3. A written observation submitted under sub-rule 1 shall be filed with the Registrar, who shall provide copies to the Prosecutor and the defence. The Chamber shall determine what time limits shall apply to the filing of such observations.

**Rule 5.5**

**Sub-rule (d) should be deleted.**

**Rule 5.7**

**Sub-rule 3 should be deleted.**

**Rule 5.17**

**Sub-rule 3 should be amended to read:**

3. Before imposing or amending any conditions restricting liberty, the Pre-Trial Chamber shall seek the views of the Prosecutor, the person concerned, any relevant State and victims that have communicated with the Court in that case and who the Chamber considers could be at risk as a result of a release or conditions imposed.

**Rule 5.18**

**Sub-rule (h) should be deleted and the second sentence of sub-rule 10 should read:**

Subject to any restrictions concerning confidentiality and the protection of national security information, the record may be consulted by the Prosecutor, the person and victims or their legal representatives participating in the proceedings pursuant to rules 6.30 to 6.30 *ter*.

**Rule 5.19**

**Sub-rule 2 (c) should be deleted.**

**Sub-rule 7 should be amended to read:**

7. During the hearing on the merits, the Prosecutor and the person shall present their arguments in accordance with article 61, paragraphs 5 and 6.

**Sub-rule 8 should be amended to read:**

8. The Pre-Trial Chamber shall permit the Prosecutor and the person, in that order, to make final observations.

**Rule 5.22**

**Sub-rule 2 should be deleted and the following sub-rules renumbered accordingly.**

**Sub-rule 3 should be amended to read:**

3. The decision of the Pre-Trial Chamber shall be notified to the Prosecutor and, if possible, to the person concerned or his or her counsel.

**Rule 5.25**

**Sub-rule 1 should be amended to read:**

1. If the Prosecutor seeks to amend charges already confirmed before the trial has begun, in accordance with article 61, the Prosecutor shall make a written request to the Pre-Trial Chamber, and that Chamber shall so notify the accused.

**Sub-rule 2 should be amended to read:**

2. Before deciding whether to authorize the amendment, the Pre-Trial Chamber may request the accused and the Prosecutor to submit written observations on certain issues of fact or law.

**Rule 5.26**

**The rule should be amended to read:**

The decision of the Pre-Trial Chamber on the confirmation of charges and the committal of the accused to the Trial Chamber shall be notified, if possible, to the Prosecutor, the person concerned and his or her counsel. Such decision and the record of the proceedings of the Pre-Trial Chamber shall be transmitted to the Presidency.

## Rule 6.10

**Sub-rule 1 shall be amended to read:**

1. Promptly after it is constituted, the Trial Chamber shall hold a status conference in order to set the date of the trial. The Trial Chamber, on its own motion, or at the request of the Prosecutor or the defence, may postpone the date of the trial. The Trial Chamber shall notify the trial date to all those participating in the proceedings. The Trial Chamber shall ensure that this date and any postponements are made public.

## Rule 6.11

**No amendment to sub-rule 1 is proposed at this time as we are awaiting the outcome of the discussions on rule 2.14.**

## Rule 6.25

**Sub-rule 1 should be amended to read:**

1. After having proceeded in accordance with article 65, paragraph 1, the Trial Chamber, in order to decide whether to proceed in accordance with article 65, paragraph 4, may invite the views of the Prosecutor and the defence.

## Rule 6.18

**Sub-rule 2 (b), as it appears in document PCNICC/2000/WGRPE(6)/RT.9, should be amended to read:**

(b) The Prosecution and the defence have the right to question that witness about relevant matters related to the witness's testimony and its reliability, the credibility of the witness and other relevant matters;

## Rule 6.22

**Sub-rule 2 should be amended to read:**

2. The Presiding Judge shall invite the Prosecutor and the defence to make their closing statements. The defence shall always have the opportunity to speak last.

## Rule 6.23

**The first and second sentences of sub-rule 1 should be amended to read:**

1. After the closing statements, the Trial Chamber shall retire to deliberate in camera. The Trial Chamber shall inform all those who participated in the proceedings of the date on which the Trial Chamber will pronounce its decision.

## Rule 6.24

**Sub-rule 2 (b) should be amended to read:**

(b) All others who participated in the proceedings, in a working language of the Court.

## Rule 6.26

**Sub-rule 1 should be amended to read:**

1. In accordance with article 69, paragraph 2, a Chamber may allow a witness to give viva voce (oral) testimony before the Chamber by means of audio or video technology, provided that such technology permits the witness to be examined by the Prosecutor, the defence and by the Chamber itself, at the time that the witness so testifies.

## Rule 6.27

**Sub-rule (b) should be amended to read:**

(b) If the witness who gave the previously recorded testimony is present before the Trial Chamber, he or she does not object to the submission of the previously recorded testimony and the Prosecutor, the defence and the Chamber have the opportunity to examine the witness during the proceedings.

## Rule 6.8

**Pending the outcome of the consultations regarding this rule, no amendment is proposed at this time.**

## Rule 9.16

**It should be submitted to the Working Group on Parts 9 and 10 that the last sentence of rule 9.16, sub-rule 1, should be deleted.**